GOVERNMENT OF INDIA
PANCHAYATI RAJ
LOK SABHA

UNSTARRED QUESTION NO:4208
ANSWERED ON:23.04.2008
AMENDMENT OF PANCHAYATS ACT 1996
Meghwal Shri Kailash

Will the Minister of PANCHAYATI RAJ be pleased to state:

(a) whether all the provisions of law related to Panchayats in the Scheduled Areas have been amended as required under the provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 within one years, i.e. by December 24, 1997;

(b) if so, the details thereof;

(c) the details of the States where the provisions of the said Act have not been faithfully implemented in letter and spirit; and

(d) the action taken by the Government in this regard?

Answer

MINISTER OF PANCHAYATI RAJ(SHRI MANI SHANKAR AIYAR)

(a) to (d): PESA extends Part IX of the Constitution to Fifth Schedule Areas, subject to certain exceptions and modifications. The following nine States have Fifth Schedule Areas:-
(i) Andhra Pradesh
(ii) Chhattisgarh
(iii) Gujarat
(iv) Himachal Pradesh
(v) Jharkhand (vi) Madhya Pradesh
(vii) Maharashtra
(viii) Orissa and (ix) Rajasthan.

All States have enacted the required compliance legislation by amending their respective Panchayati Raj Acts, details of which are annexed. However, in several States, rules for operationalizing the implementation of PESA are yet to be framed. Some States are also yet to amend the subject laws, such as those relating to money lending, forest, excise etc. Consequently, compliance remains incomplete, perfunctory and formal in virtually all States. Vital issues like the ownership of minor forest produce, planning and management of minor water bodies, prevention of alienation of tribal lands etc., which have been duly recognized in PESA as the traditional rights of tribal living in the Scheduled Areas, have still not received the warranted attention and, therefore, the necessary correctives remain to be applied. There are also issues relating to powers statutorily devolved upon the Gram Sabha and the Panchayats not being matched by the concomitant transfer of funds and functionaries resulting in the non-exercise of such powers. Over the years, States have been repeatedly urged to expedite this process. The matter was discussed in the Third Round Table of Panchayati Raj Ministers in September, 2004 where the State Ministers agreed to enforce the provisions of PESA and also to undertake a wider consultation with other government departments so as to harmonize the provisions of the concerned laws with the aims and objectives of PESA. The matter has also been discussed a number of times at meetings of the Council of Ministers of Panchayati Raj and other such get-together such as the NDC Empowered Sub-Committee as also in the meetings of the Committee of Secretaries of Panchayati Raj of the States. The Ministry of Panchayati Raj had also entrusted to the Indian Law Institute the task to of formulating appropriate amendments in the concerned State laws with a view to assisting the State Governments undertaking compliant legislation in consultation with their respective Departments of Law. Indian Law Institute (ILI) submitted its report on 19/04/06, which was forwarded to the PESA States for comments. Some State Governments have sent their comments; others are being reminded repeatedly. States have also been requested to identify the subject laws which may not have been studied by the ILI but which require amendment to bring them in conformity with PESA.

A meeting of the Secretaries of the Department of Panchayati Raj, Tribal Development, Commissioners of Tribal Area Development, Heads of Tribal Research Institute, Tribal Development Corporations and the Central Ministries was held on 14/7/2006 for suggesting remedial action, wherever required, on various issues related to the PESA Act. The Ministry of Panchayati Raj constituted three sub-committees, one chaired by Shri. B. D. Sharma on "Model Guidelines to vest Gram Sabhas with Powers as envisaged in PESA"; another chaired by Shri Raghav Chandra on 'Land Alienation, Displacement, Rehabilitation & Resettlement'; and a third chaired by Shri A.K Sharma on 'Minor Forest Produce' The three sub-committees have submitted their reports and recommendations, which have been forwarded to PESA States for their comments. Some State Governments have sent their comments; others are being reminded repeatedly. Meanwhile, the recommendations of these sub-committees are being examined in the Ministry.

A review meeting of the PESA States on implementation of the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 was held on 13 November 2007 New Delhi. A future action plan for implementation of PESA in letter and spirit was agreed to by

the States in the review Meeting. States have been requested to convene Needs Consultation Workshops with the participation of representatives from all the departments concerned with subject laws so that the process of implementation of the provisions of PESA is expedited.